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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,972	09/08/2004	Akio Hoshi	KAGEI-0103-US	8793

40575 7590 11/23/2005

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EXAMINER

LIU, JONATHAN

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/506,972	Applicant(s) HOSHI ET AL.	
	Examiner Jonathan J. Liu	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/8/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Quayle Action

1. This application is in condition for allowance except for the following formal matters:

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Claim Objections

2. Claims 1-12 are objected to because of the following informality:

It is unclear to the examiner whether the applicant is claiming the sub-combination of the seal or the combination of the swing structure and seal. The preamble indicates a sub-combination because of the wording "a grease bath seal..." whereas the body of claim 1 indicates the combination of the seal and structure. Please clarify which (either the sub-combination of the seal or the combination of the seal and swing structure) is intended to be claimed. For example, if applicant wishes to claim the combination of the seal and swing structure, an alternative preamble may read: "a swing mechanism of a construction machine comprising of a grease bath seal..." Appropriate correction is required.

Reasons for Allowance

The prior art on record fails to disclose a grease bath seal in combination with a swing mechanism comprising of a center joint and plateau walls. Kitada (JP S64-5961) shows a swing mechanism (Figure 1) comprising of an inner ring (Figure 1, #5) rotatably coupled with an outer ring (Figure 1, #4) on a swing frame (Figure 1, #8) on the side of an upper swing structure of the construction machine. Also shown, is a ring gear (Figure 1, #12) provided on the inner periphery of said inner ring and meshed with a swinging pinion (Figure 1, #13) on the side of said upper swing structure, and a grease bath portion (Figure 1, #14). Kitada does not show a center joint or plateau walls. It is not obvious to construct a swinging mechanism with these features and as so, would be hindsight.

Kitada shows a seal (Figure 1, #18) although specific features of the seal are unidentifiable from Figure 1. To further the examination, the examiner references a seal

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taught by Savoia (US 5209502). Although Savoia discloses the seal as claimed, it does not overcome the Kitada deficiencies, as it does not disclose a plateau wall or central swing joint. Nor is there any teaching or motivation to provide the Savoia seal on a swing mechanism having a plateau wall and central swing joint.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan J. Liu whose telephone number is (571) 272-8227. The examiner can normally be reached on Monday through Friday, 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suzanne Barrett can be reached on (571) 272-7053. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan J Liu
11/14/2005

Suzanne Barrett
Supervisory Patent Examiner
Art Unit 3676

A handwritten signature in black ink, appearing to be 'Suzanne Barrett', written over a horizontal line.